

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *kg* D.C.
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ROBERT R. DITOLIO
CLERK, U.S. DIST. CT.
WESTERN DIVISION, MEMPHIS

MARILYN JOHNSON, et al.,

Plaintiffs,

vs.

CITY OF MEMPHIS,

Defendant.

Civ. No. 00-2608-D/P
&
04-2017-D/P

FLORENCE BILLINGSLEY, et al.,

Plaintiff's,

vs.

CITY OF MEMPHIS,

Defendant.

Civ. No. 04-2013-D/An

ORDER DENYING DEFENDANT'S MOTION TO STRIKE REBUTTAL REPORT OF
PLAINTIFFS' EXPERT AND GRANTING DEFENDANT'S MOTION TO EXTEND TIME
TO RESPOND TO REBUTTAL REPORT

Before the court is Defendant City of Memphis's Motion to Strike Rebuttal Report of Plaintiffs' Expert Or, Alternatively, Motion to Extend Time to Respond to Rebuttal Report, filed March 9, 2005 (dkt #314). On March 22, 2005, Plaintiffs filed their response to the motion. On April 19, 2005, the motion was referred to the Magistrate Judge for determination.


This document entered on the docket sheet in compliance
with Rule 58 and/or 79(a) FRCP on 5/4/05

335

The sole basis for Defendant's motion to strike is that the supplemental report of Plaintiffs' expert, provided to Defendant on February 7, 2005, is untimely. Defendant contends that the supplemental report should have been disclosed within thirty days after the Defendant made its expert disclosure. Plaintiffs, on the other hand, argue that the supplemental report is timely under Rule 26(a)(2)(C) and (e)(1). The court need not resolve this dispute, because even assuming, arguendo, that the supplemental report is not timely, the court finds good cause under Rule 16(b)(6) to modify the scheduling order to allow the disclosure. Defendant's expert was not deposed until October 2004, and since then, has filed affidavits in October and December 2004. The supplemental report addresses issues raised in Defendant's expert report as well as the subsequently filed affidavits. Therefore, the motion to strike is DENIED.

The court further GRANTS Defendant's motion to extend time to respond to the Plaintiffs' supplemental report. Defendant shall have until May 30, 2005, to supplement its expert report.

IT IS SO ORDERED.



TU M. PHAM
United States Magistrate Judge

Date 5/2/05



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Honorable Bernice Donald
US DISTRICT COURT